

The Educational Advancement Act did not change the boundaries of the Wilmington public schools, which had been coterminous with the city of Wilmington since 1905. Nor did it prevent Wilmington from coalescing with other school districts. It simply exempted Wilmington (and two other school districts) from the temporary interval when this could be done without a referendum. The 12,000 student limit (which also applied for only one year) was included in the education act because Wilmington had traditionally been the largest school district in a small state, and because in the 1960s there was much talk about the importance of community involvement in the public schools.

In 1968 no one of prominence in Delaware wanted to merge any of the larger school districts. The Wilmington Board of Education had not endorsed such recommendations, nor had any black organization in Delaware. All of Wilmington's representatives in the state legislature, including four African-Americans, voted for the Educational Advancement Act. Without their support the measure would have failed of passage, for it survived a crippling amendment by only a single vote. Opposition to the measure was centered in southern Delaware, where many people feared a loss of local control, identified with the local high school athletic teams, and opposed consolidation with traditional rivals.

Judges Gibbons and Wright nevertheless held that "to a significant extent . . . the net outmigration of white population and increase of city black population in the last two decades, resulted . . . from assistance, encouragement, and authorization by government policies." They conceded that private fears and prejudices had contributed to white flight from Wilmington, but they essentially endorsed the plaintiffs' argument. "Since Brown governmental authorities have contributed to the racial isolation of city from suburbs. . . . [They] have elected to place their 'power, property, and prestige' behind the white exodus from Wilmington. . . . [G]overnmental authorities are responsible to a significant degree for the increasing disparity . . . between Wilmington and its suburbs."

Thus there are two theories to account for busing for racial balance. One, the theory of liberal sociology, touted busing as a way to boost the academic performance of black students. This theory was embraced by several federal judges of the late-1960s and 1970s, and it may well have influenced the decisions of the court in the Delaware busing case. The second theory, a theory that the Delaware judges expounded, was that busing was a remedy that the courts had to impose in order to make sure that Delaware made amends for the damage its State Legislature caused when it passed the Educational Advancement Act of 1968 and when it contributed to "the net outmigration of white population and increase of city black population" by building highways and by constructing a disproportionate number of subsidized housing units in Wilmington.